IN THE HIGH COURT OF JUDICTURE AT MADRAS

Dated: 17.04.2007

Coram

The Hon'ble Mr.JUSTICE S.RAJESWARAN

W.P. No.5041 of 1998

Buttukan @ Kandan ..Petitioner

Vs

1. State of Tamil Nadu
rep. by its Secretary to Government
Backward Classes and Most Backward Classes Welfare Dept.
Fort St.George
Chennai 600 009.

2. The District Collector
Dharmapuri District
Dharmapuri 5.

3. The Special Tahsildar
Adi~Dravidar Welfare
Dharmapuri 637 701. ..Respondents

Writ petition filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorarified Mandamus as stated therein.

For Petitioner : M/s.R.Thamaraiselvan

For Respondents : Mr.C.Ramesh, Addl.Govt.Pleader.

ORDER

This writ petition has been filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the notification under Sec.4(1) of the Land Acquisition Act in G.O.(3D) No.32, Backward Classes and Most Backward Classes Welfare Department dated 27.3.96 published in the Tamil Nadu Government Gazette

(Supplement) part-II Sec.2 dated 24.4.1996 and the declaration under Sec.6 of the Act in G.O.(3D) No.21 Backward Classes and Most Backward Classes Welfare Department dated 5.5.97 published in the Tamil Nadu Government Gazette (Extraordinary) Part.II Sec.2 dated 5.5.97 and quash the same insofar as the petitioner's land is concerned and consequently forbear the respondents from in any manner proceeding with the acquisition of lands of the petitioner comprised in Survey No.148/1 of an extent of 0.28.0 hectares in B.Anjehalli village, Pennagaram Taluk and Dharmapuri District.

2.The petitioner is the owner of agricultural lands measuring an extent of 0.28.0 hectares in S.No.148-1 situated in B.Anjehalli village, Dharmapuri District. 1st respondent issued a notification under Sec.4(1) of the land Acquisition Act, 1894, hereinafter called 'the Act', dated 27.3.1996 published in the Tamil Nadu Government Gazette dated 24.4.96 in which the lands of the petitioner were also required for the public purpose of providing house-sites to the people belonging to Vanniars of Bilianur Agraharam village. According to the writ petitioner, he was not served with any enquiry notice under Sec.5A of the Act. His valuable right to put forth his objections to the proposed acquisition were taken away and he was denied the opportunity of participating in the 5A enquiry. Hence he filed the above writ petition for the above said relief.

3.A counter affidavit has been filed by the respondents stating that the petitioner appeared for the enquiry on 10.7.96 and offered his statement that he has no objection for the acquisition of the land.

4.Heard the learned counsel for the petitioner and the learned Addl.Government Pleader for the respondents. I have also gone through the documents filed by them in support of their submissions.

5.The learned counsel for the petitioner while reiterating the contentions raised in the affidavit submitted that the Sec.6 declaration has not been published within one year as required under law. He further added that the substance of Sec.4(1) notification was published in two dailies namely, 'Makkal Kural' and 'Vetri Malai' and the daily 'Vetri Malai' is not at all in circulation in that area.

6.I am unable to accept the submissions made by the learned counsel for the petitioner. First of all, he attended the 5A enquiry on 10.7.96 and informed the authorities that he had no objection for the proposed acquisition. The 4(1) notification was first published in the Gazette dated 24.4.96 and in two dailies on 26.4.96 and 28.4.96. It was also published in the village on 15.5.96. The Sec.6 declaration was published in the Gazette on 5.5.97. Therefore it cannot be said that there was a delay in the publication of Sec.6 declaration. Insofar as the publication of 4(1) notification in the two dailies are concerned, it was not shown by the writ petitioner how he was prejudiced in this regard. Therefore, I do not find any merit in the writ petition and consequently the same is dismissed. No costs. W.M.P.No.7835/1998 is also dismissed.

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To

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